



SHA

Since 1971

ASSP Badgerland OSHA Update

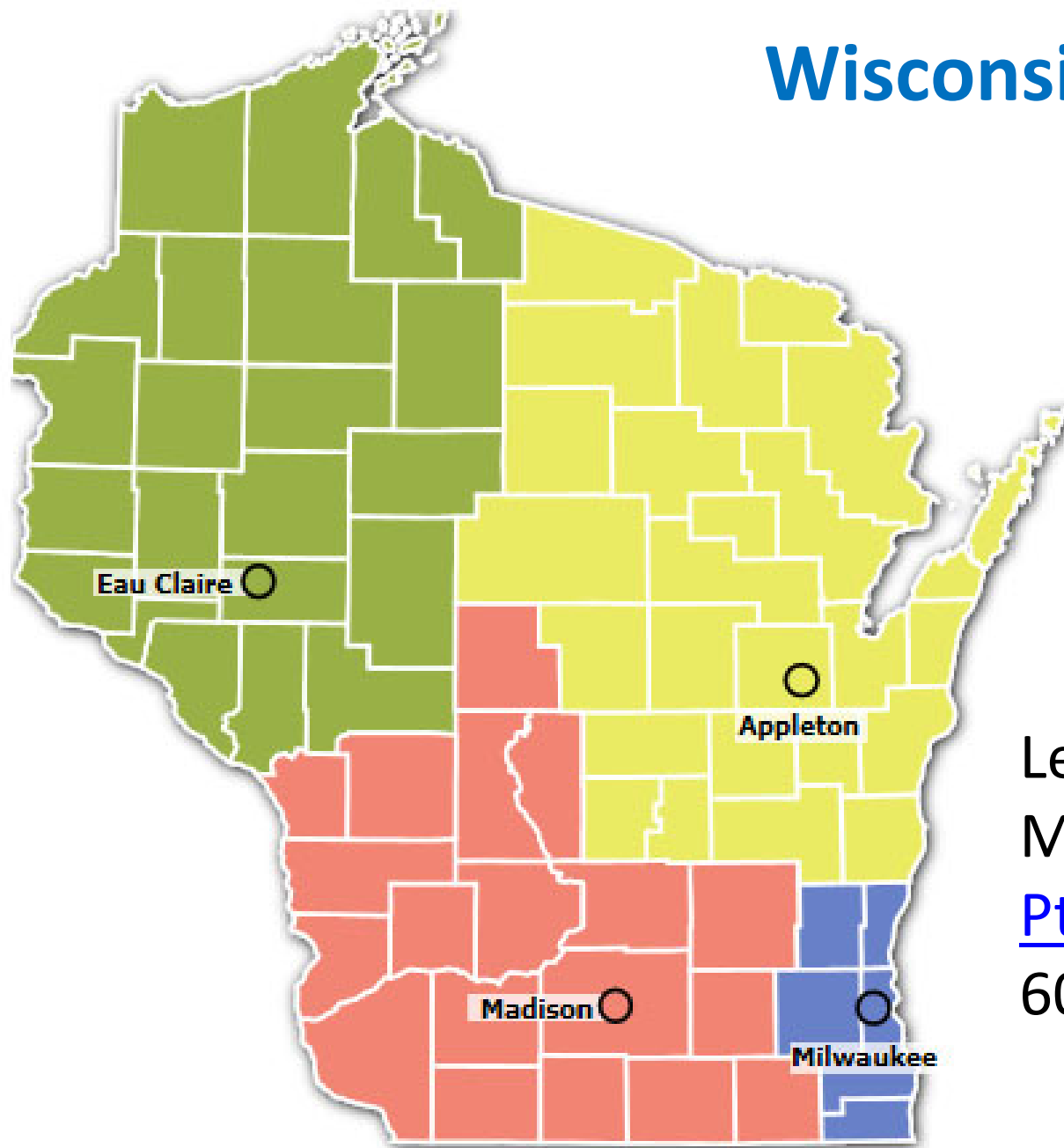
Leslie Ptak

Compliance Assistance Specialist

January 24, 2019

Verona, WI

Wisconsin OSHA Offices



Leslie Ptak
Madison OSHA Office
Ptak.leslie@dol.gov
608-441-5388 x114

Disclaimer

This information has been developed by an OSHA Compliance Assistance Specialist and is intended to assist employers, workers, and others as they strive to improve workplace health and safety. While we attempt to thoroughly address specific topics [or hazards], it is not possible to include discussion of everything necessary to ensure a healthy and safe

working environment in a presentation of this nature. **Thus, this information must be understood as a tool for addressing workplace hazards, rather than an exhaustive statement of an employer's legal obligations, which are defined by statute, regulations, and standards.**

Likewise, to the extent that this information references practices or procedures that may enhance health or safety, but which are not required by a statute, regulation, or standard, it cannot, and does not, create additional legal obligations. Finally, over time, OSHA may modify rules and interpretations in light of new technology, information, or circumstances; to keep apprised of such developments, or to review information on a wide range of occupational safety and health topics, you can visit OSHA's website at www.osha.gov.



**KEEP
CALM
AND
SAVE
TREES**

Agenda

- What is new with OSHA's National Office?
- OSHA Inspections
- What is still the same
- What has changed
- Regulatory agenda
- Current awareness campaigns
- Answer *your questions!*
- Your questions are **IMPORTANT!!**

OSHA Leadership



What is still the same

Wisconsin Inspection Statistics

October 1, 2017 – September 30, 2018

- Wisconsin did 1,204 inspections
 - 599 construction
 - 29 fatality investigations
 - 1517 complaints/referrals received
 - 544 Severe injury reports
 - 75% of violations had penalties assessed
 - Average violations/inspection was 2.56
 - Average assessed penalty/"serious" violation was \$5,846

**58% of fatalities Wisconsin OSHA
investigated were struck-by incidents**

58%

OSHA Cites Wisconsin Refinery

- October 2018 in Wisconsin
- Investigators cited the refinery for eight serious violations of OSHA's process safety management (1910.119) procedures.
- Ensuring the mechanical integrity of critical equipment used during the refinery shutdown operation could have prevented the incident.
- The company faces \$83,150 in proposed penalties.

OSHA Cites Food Processor

- September 2018 in Wisconsin
- The employer was cited for machine guarding violations that led to an employee suffering serious injuries after becoming caught in an unguarded machine.
- OSHA cited the company for one willful and 10 serious violations, with proposed penalties of \$221,726.

OSHA Cites Contractor

- July 2018 in Wisconsin
- OSHA cited a roofing contractor, for the sixth time in the past five years for exposing employees to falls.
- OSHA proposed penalties totaling \$48,777.

OSHA Cites Different Contractor... again

- June 2018 in Wisconsin
- OSHA inspectors observed employees exposed to falls and other safety hazards at two Wisconsin job sites.
- Contractor was cited for one repeated and two willful violations for failing to provide fall protection, train workers on fall hazards, properly install an extension ladder for safe egress, and provide required ladder jack scaffold components.
- OSHA proposed penalties of \$120,320.

OSHA cites battery manufacturer

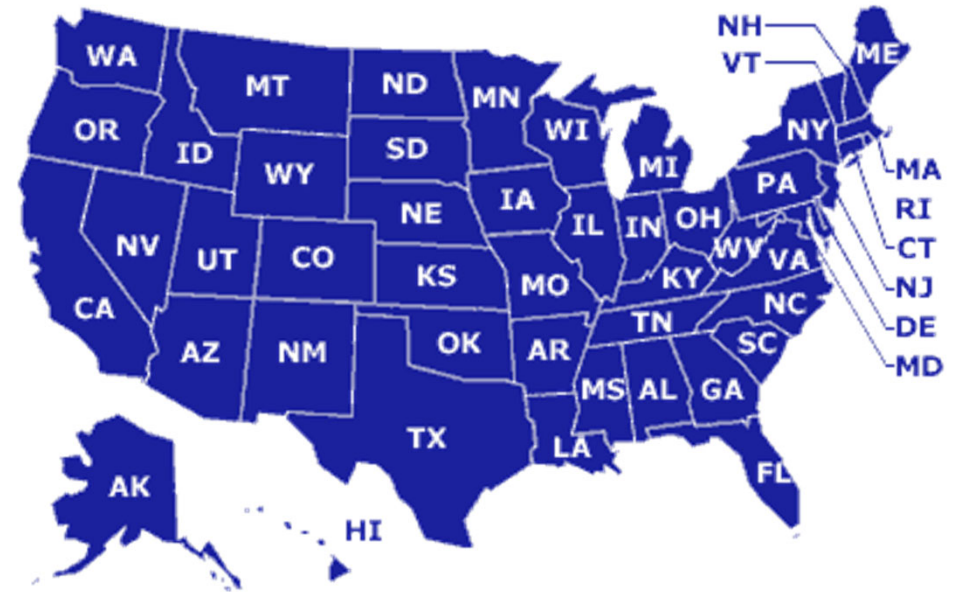
- May 2018 in Wisconsin
- Manufacturer was cited for exposing employees to lead and failing to implement an effective lead management program.
- OSHA determined that 14 employees were exposed to airborne lead at levels 11 times the permissible exposure limit.

Region V Priorities

- Automotive industry
- Communication towers
- Construction
- Grain handling industry
- Healthcare
- Heat illness
- Landscaping & tree trimming
- Noise
- Oil & gas industry
- Silica
- Warehousing & trucking
- Temporary Workers
- Young Workers
- NEPs & LEPs and campaigns

National Emphasis Programs

- Cranes & derricks in construction
- Combustible dust
- Federal agencies
- Hazardous machinery
- Hexavalent chromium
- Lead
- Primary metal industries
- Process safety management
- Shipbreaking
- Trenching and excavation



Local Emphasis Programs, Region V

- Building renovation & rehabilitation & demolition
- Fall hazards in construction & general industry
- Grain handling facilities
- Maritime industries
- Powered industrial vehicles
- Wood pallet manufacturers
- Noise (proposed LEP in Wisconsin and Ohio)



Anti-Retaliation Provisions

1904.35 (Employee Involvement) makes it a violation for an employer to **discourage employee** reporting of injuries and illnesses.

Typically done by creating a culture where employees feel intimidated into not reporting injuries and illnesses (1) drug testing programs, (2) disciplinary programs, or (3) incentive programs.

Anti-Retaliation Citations

- October 2018 in Wisconsin
- A machine operator has been awarded \$100,000 in back wages and compensatory damages after his employer terminated him for reporting injuries he and a co-worker sustained.
- The court considered whether the company terminated the employee based on the company's policy of assigning disciplinary points to employees who reported injuries. The court found this policy to be a potential deterrent to reporting work-related injuries.

Anti-Retaliation Citations

- October 2018 in Massachusetts
- An employee faced an investigative hearing with possible disciplinary action or termination for reporting an on-the-job injury
- The company notified the employee of a mandatory hearing one day after he sustained and reported his injury, and was subjected to the hearing.
- OSHA ordered the company to pay the employee \$10,000 in compensatory damages, \$75,000 in punitive damages, and attorney's fees.

Recommended Practices for Anti-Retaliation Programs

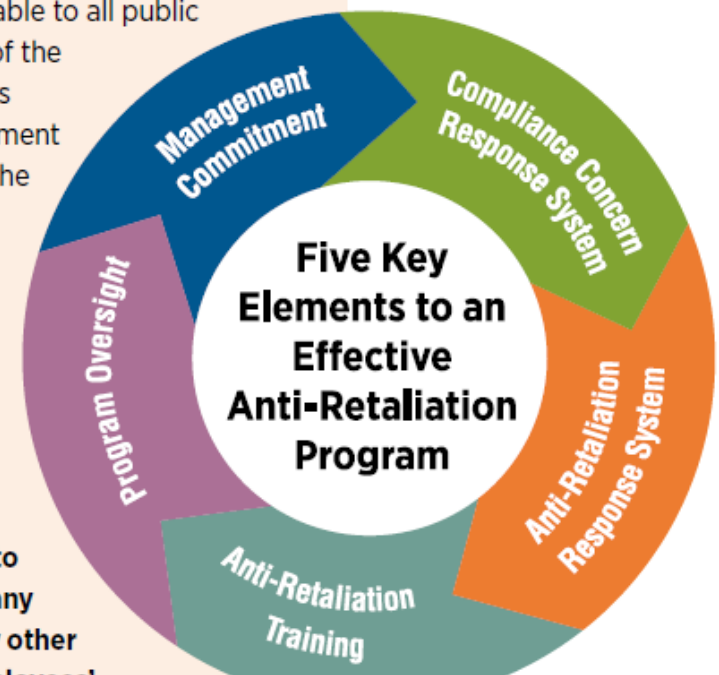


How to Use These Recommended Practices

This set of recommendations is intended to assist employers in creating workplaces that are free of retaliation, including retaliation against employees who engage in activity protected under the 22 whistleblower laws that the Occupational Safety and Health Administration (OSHA) enforces. This document is advisory in nature and informational in content. It is not mandatory for employers, and does not interpret or create legal obligations.

These recommendations are intended to be broadly applicable to all public and private sector employers that may be covered by any of the whistleblower protection provisions enforced by OSHA. This recommended framework can be used to create and implement a new program, or to enhance an existing program. While the concepts outlined here are adaptable to most workplaces, employers may adjust these guidelines for such variables as employer size, the makeup of the workforce, and the type of work performed.¹

This guidance is directed at employers that may be covered by the 22 whistleblower protection statutes that OSHA enforces, although the basic principles in this guidance could also be useful in circumstances where other anti-retaliation protections apply. **This guidance is not intended to advise employees about their rights or protections under any whistleblower protection statute enforced by OSHA or any other**



www.osha.gov/Publications/OSHA3905.pdf

WORKPLACE



Workplaces where it is reasonably anticipated that employees could be exposed to violence.

- <https://www.osha.gov/SLTC/workplaceviolence/index.html>
- www.osha.gov/sites/default/files/enforcement/directives/CPL_02-01-058.pdf

- Health Care Workers
- Caregiving
- Social Service Workers
- Corrections
- Taxi and For-Hire Drivers
- Late-Night Retail Establishments

Protecting Temporary Workers

www.osha.gov/temp_workers/index.html

- Recommended practices for protecting temporary workers
- Nine Bulletins addressing
 - Recordkeeping
 - PPE
 - Training
 - HazCom
 - Bloodborne pathogens
 - PIVs
 - Noise
 - Etc.
- Temporary Workers' Rights

Highlights

- Recommended Practices: Protecting Temporary Workers
- Policy Background on the Temporary Worker Initiative
- Temporary Worker Initiative (TWI) Bulletin No. 1 - Injury and Illness Recordkeeping Requirements
- Temporary Worker Initiative (TWI) Bulletin No. 2 – Personal Protective Equipment
- Temporary Worker Initiative (TWI) Bulletin No. 3 – Whistleblower Protection Rights
- Temporary Worker Initiative (TWI) Bulletin No. 4 - Safety and Health Training
- Temporary Worker Initiative (TWI) Bulletin No. 5 - Hazard Communication
- Temporary Worker Initiative Bulletin No. 6 – Bloodborne Pathogens
- Temporary Worker Initiative Bulletin No. 7 - Powered Industrial Truck Training
- Temporary Worker Initiative Bulletin No. 8 - Respiratory Protection
- Temporary Worker Initiative Bulletin No. 9 - Noise Exposure and hearing Conservation
- Temporary Workers' Rights Pamphlet

What is *new*!

Crane Operator Certification

1926.1427

OSHA COMPLIANT



1926.1427 is not applicable to:


- Derricks
- Sideboom cranes
- Equipment with a rated capacity <2,000lb.

Employer's Goals

- Your operators have the **skills, knowledge** and **ability** necessary to **recognize** and **avert risk** and operate the equipment safely.
- Your certified crane operators transition to becoming **OSHA compliant** crane operators.

Requirements for:

An **OSHA**
compliant crane
operator requires
all three

- 
1. Certification through third party (e.g., OECP, NCCO)
 2. Training in employer's equipment and configuration
 3. Evaluation by employer

Operator Certification/Licensing

- Licensing by a state/local government (must be equal to OSHA certification requirements)
- Certification
 - Accredited testing organization
 - Audited employer program
- Type or type and capacity

Operator-in-Training

All operators are operators-in-training
until they are (1) certified, (2) trained
and (3) evaluated

Training

- Equipment specific
- Configuration specific
- This is formal and practical training in how the operator-in-training is to use your equipment and execute your lifts.

Operator-in-Training

Until OSHA compliant...

- Must be continuously monitored on site by trainer
- Only assigned tasks within their ability
- Retraining as necessary (e.g., new equipment, new configurations, etc.)

Operator-in-Training's Trainer

- Has the knowledge, training and experience necessary to direct the O-I-T on the equipment in use
- The O-I-T's trainer does no other tasks that detract from the ability to monitor the O-I-T

Evaluator

- Knowledge, training, and experience
 - Does not have to be a certified operator
- Evaluation can be conducted during normal operations
- Evaluator can be trainer
- Employee or agent of operator's employer

Evaluation:

Ensure the operator is OSHA compliant by:

- Skills, knowledge and ability to recognize and avert risk necessary to operate equipment safely.
- Ability to perform the hoisting activities required for assigned work.
- Does not have to be evaluated on every piece of equipment.
- No new evaluation for operators hired before December 10, 2018 – just document when they were first evaluated

Documentation

- Evaluation documented with:
 - Operator's name
 - Evaluator's name and signature
 - Date
 - Make/model/configuration

Due Dates

- Publication date:
 - November 9, 2018
- Effective date:
 - December 10, 2018
- Effective date for evaluation & documentation:
 - February 7, 2019

Trenching and Excavation Injuries in the U.S., Fatal and Nonfatal, 2011-2016



OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL-02-00-161

EFFECTIVE DATE: 10/1/2018

SUBJECT: National Emphasis Program on Trenching and Excavation

ABSTRACT

Purpose:

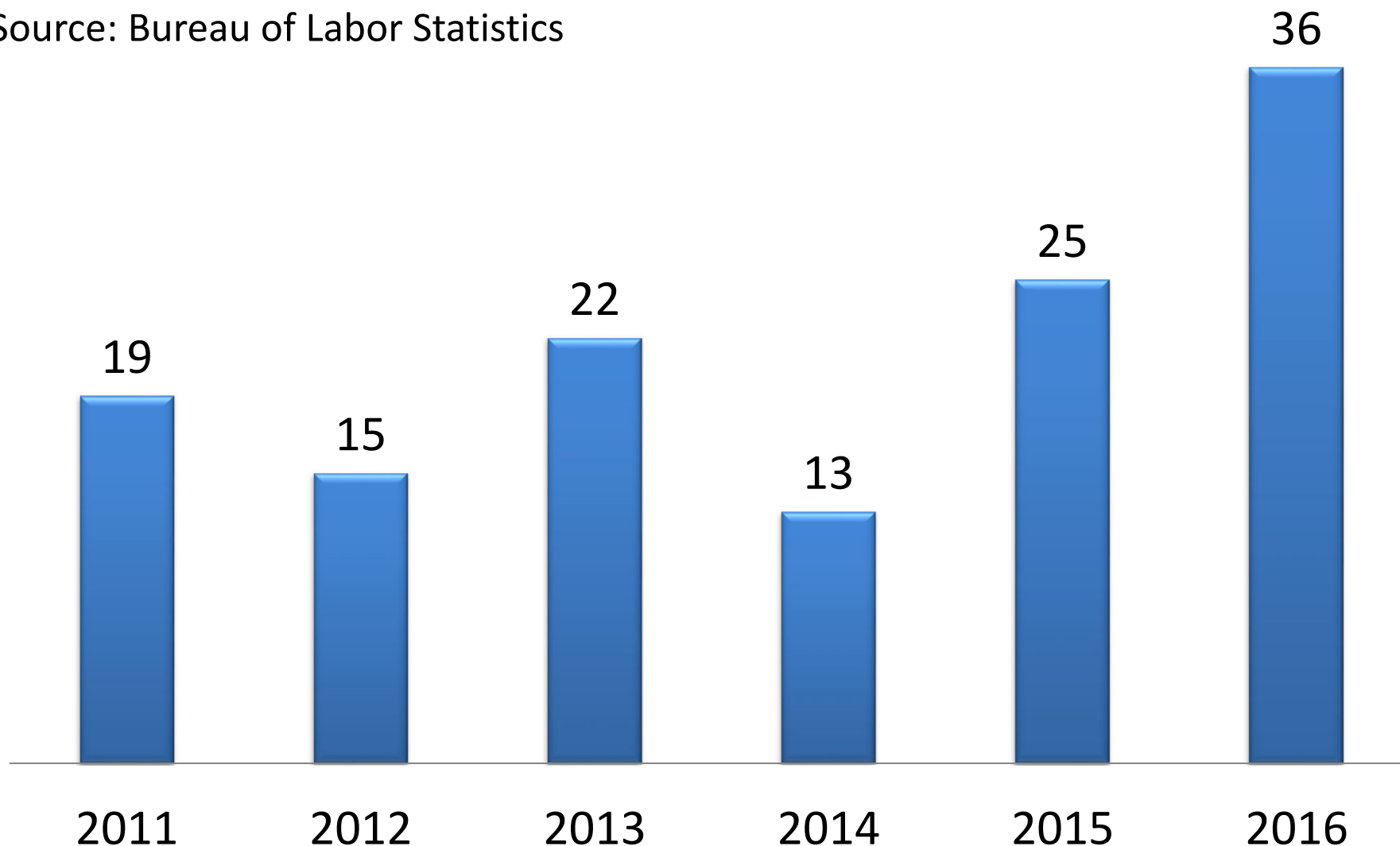
This instruction, *National Emphasis Program on Trenching and Excavation*, describes policies and procedures for continued implementation of an OSHA National Emphasis Program (NEP) to identify and address hazards that are likely to cause serious injuries and fatalities during trenching and excavation operations.

www.osha.gov/SLTC/trenchingexcavation/index.html

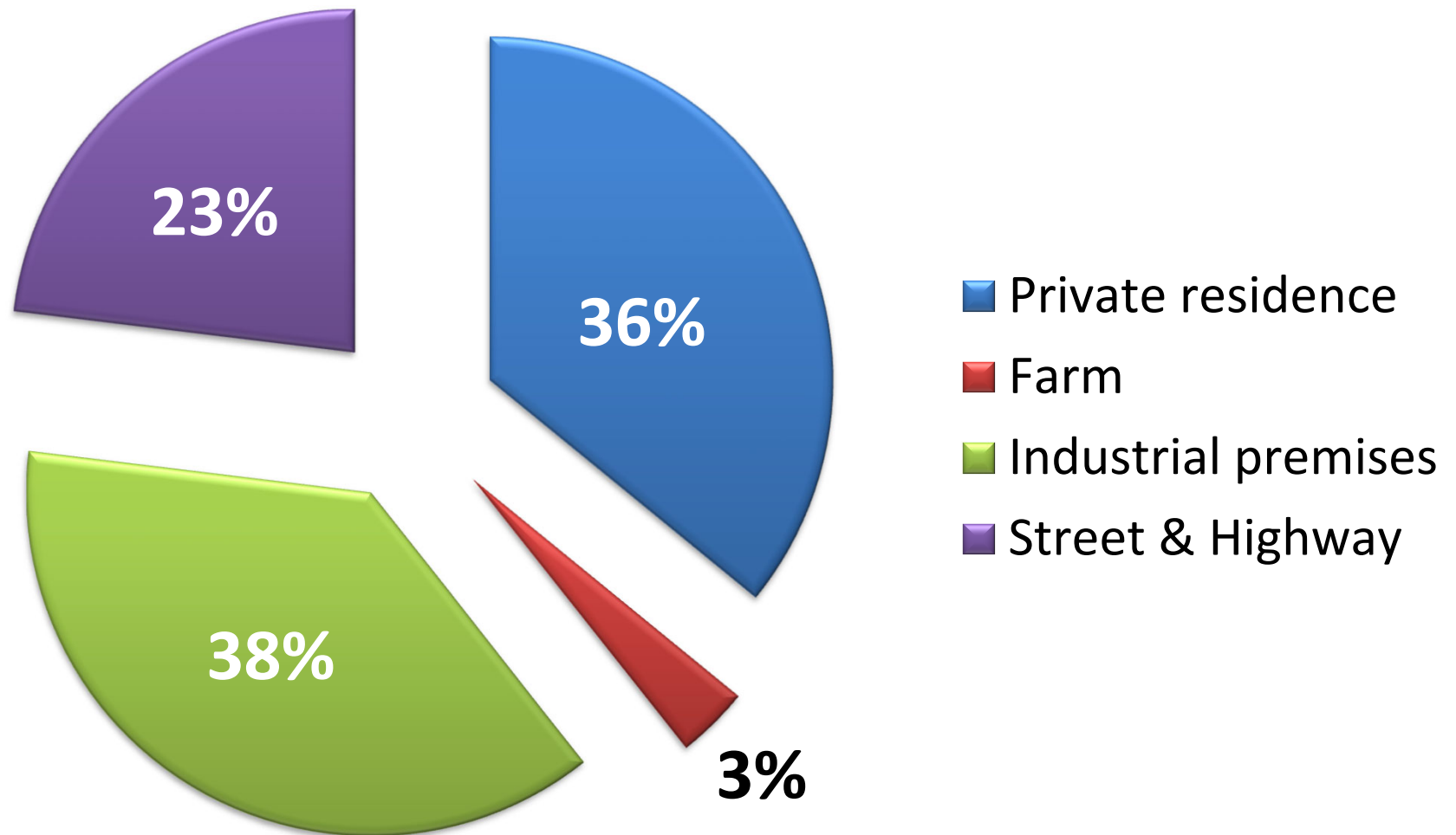
www.osha.gov/enforcement/directives/cpl-02-00-161

Fatalities due to trench and excavation cave-ins, 2011-2016, U.S., all ownerships.

Source: Bureau of Labor Statistics



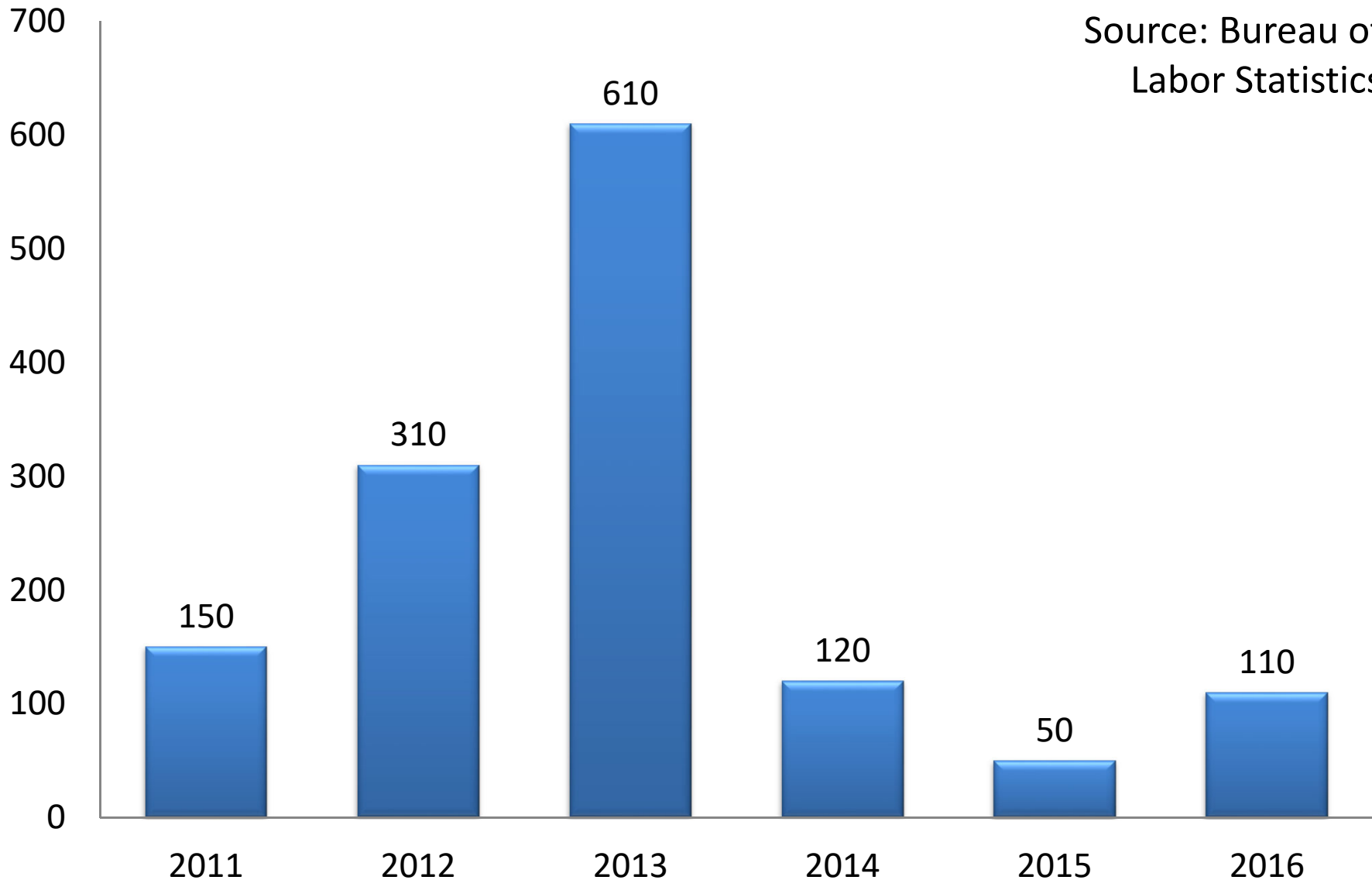
Locations of fatalities due to trench and excavation cave-ins, 2011-2016, U.S., all ownerships.



Source: Bureau of Labor Statistics

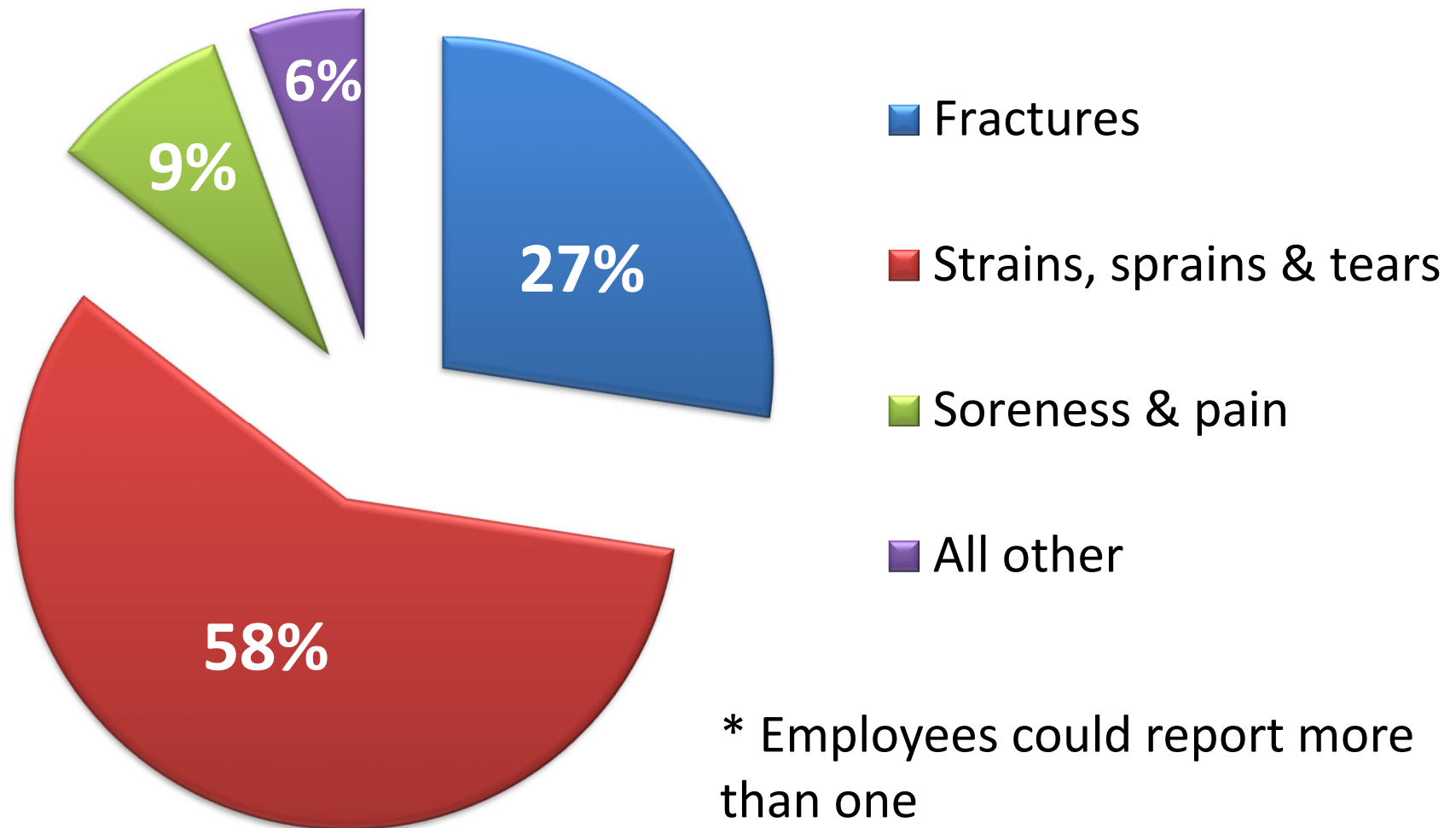
Non-fatal injuries due to trench and excavation cave-ins, 2011-2016, U.S., all ownerships.

Source: Bureau of
Labor Statistics



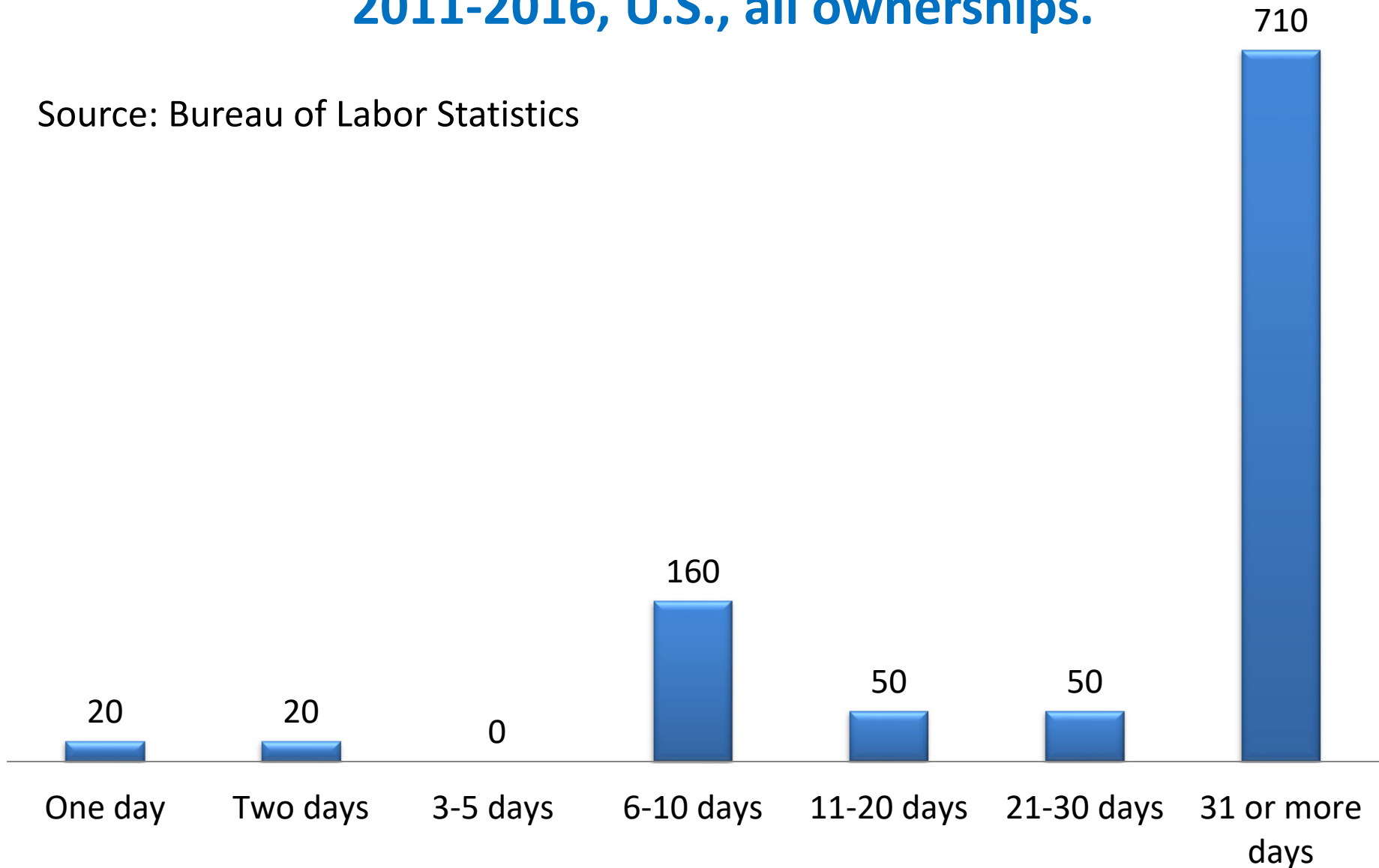
Nature of injuries experienced by employees* in nonfatal trench & excavation cave-in injury cases, 2011-2016, U.S., all ownerships.

Source: Bureau of Labor Statistics



Number of nonfatal trench & excavation cave-in injury cases by resulting days away from work, 2011-2016, U.S., all ownerships.

Source: Bureau of Labor Statistics



National Emphasis Program

www.osha.gov/enforcement/directives/cpl-02-00-161



Electronic Reporting FINAL RULE!

Submission year	Establishments with 250 or more employees in industries <u>covered by</u> the recordkeeping rule	Establishments with 20-249 employees In <u>select industries</u>	Submission deadline
2019 & beyond	300AForms	300A Form	March 2 of every year

Site Specific Targeting 2016

OSHA will create inspection lists using:

1. Establishment 2016 DART rate (Days Away, Restricted or Transferred) data
2. A random sample of establishments that did not submit their 2016 OSHA 300A form to the Injury Tracking Application
3. A random sample of establishments that had low 2016 rates

Inspections will be **comprehensive** in scope.



Safe + Sound Campaign

Promoting Safety and Health Programs to Prevent
Workplace Injuries and Illnesses

<https://www.osha.gov/safeandsound/>

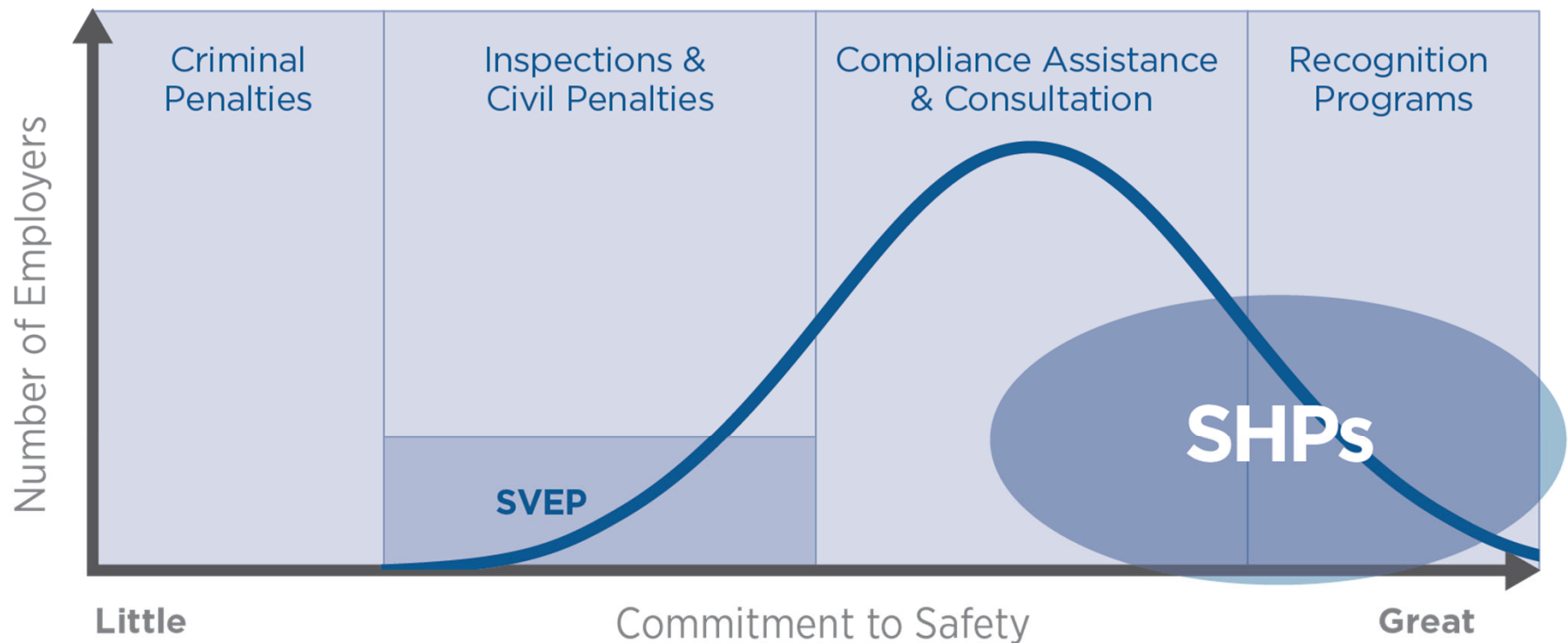
Shifting the Safety Curve

Distribution of Employers,
by Commitment to Workplace Safety



Shifting the Safety Curve

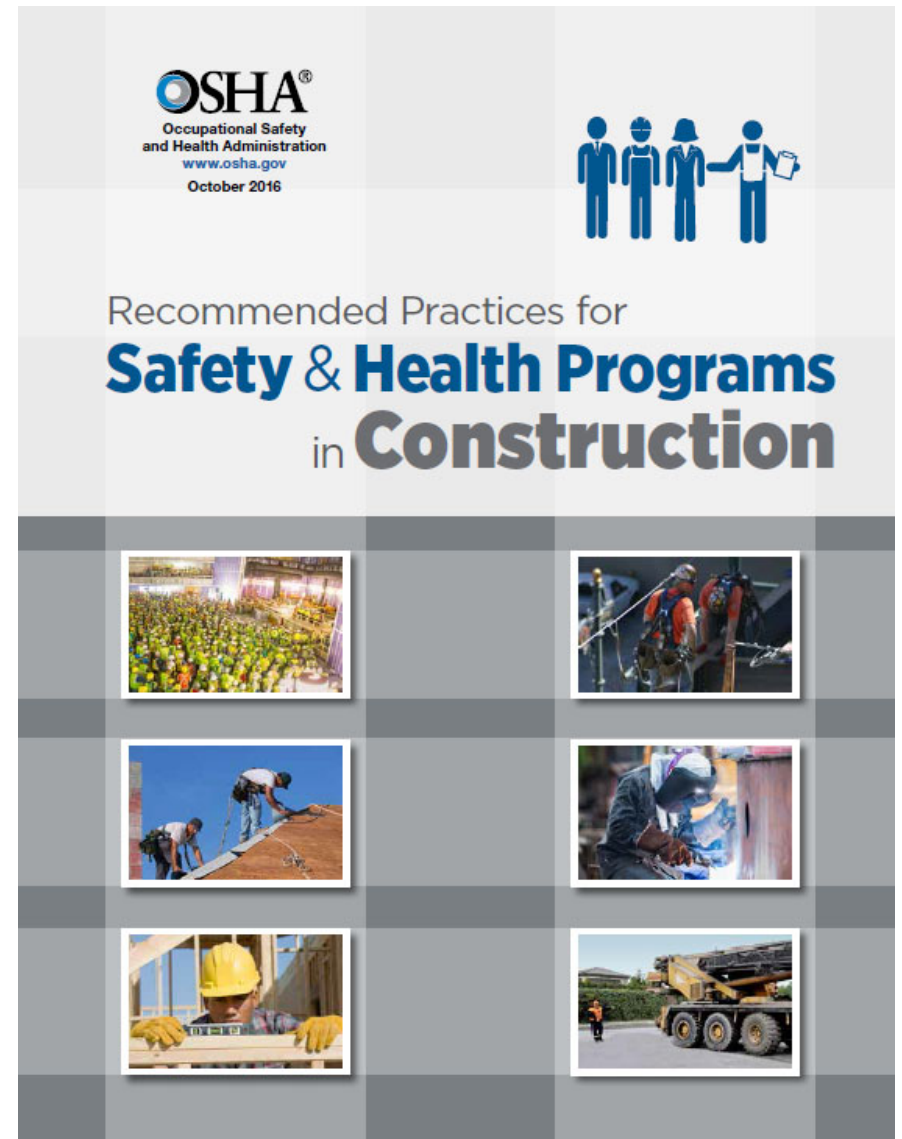
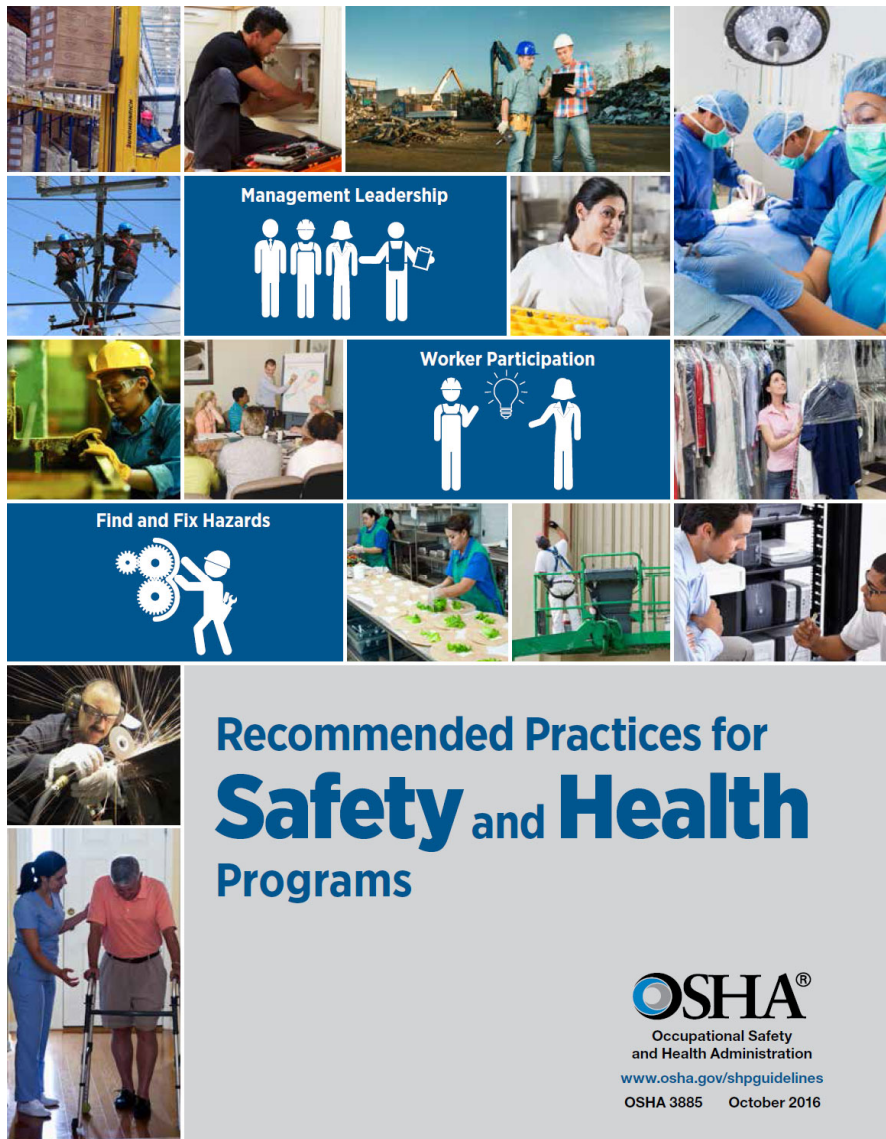
Distribution of Employers,
by Commitment to Workplace Safety



Safety and Health Programs

1. Management commitment
2. Employee engagement, including staffing employees and contractors
3. Establish ways to find safety issues
4. Establish ways to fix safety issues

<https://www.osha.gov/shpguidelines/index.html>



Recommended Practices for Safety and Health Programs



GETTING
STARTED



CORE
ELEMENTS



EXPLORE
TOOLS



CASE STUDIES



ADDITIONAL
RESOURCES



DOWNLOAD THE
RECOMMENDED
PRACTICES

A **safe** workplace is **sound** business

OSHA has recently updated the Guidelines for Safety and Health Programs it first released 30 years ago, to reflect changes in the economy, workplaces, and evolving safety and health issues. The new Recommended Practices have been well received by a wide variety of stakeholders and are designed to be used in a wide variety of small and medium-sized business settings. The Recommended Practices present a step-by-step approach to implementing a safety and health program, built around seven core elements that make up a successful program.

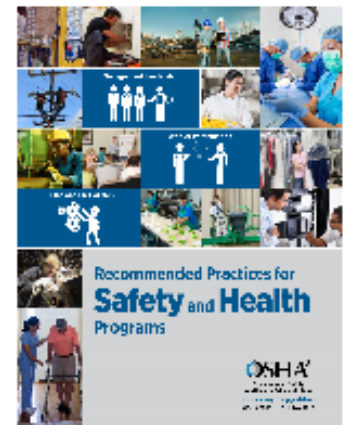
The main goal of safety and health programs is to prevent workplace injuries, illnesses, and deaths, as well as the suffering and financial hardship these events can cause for workers, their families, and employers. The recommended practices use a proactive approach to managing workplace safety and health. Traditional approaches are often reactive—that is, problems are addressed only after a worker is injured or becomes sick, a new standard or regulation is published, or an outside inspection finds a problem that must be fixed. These recommended practices recognize that finding and fixing hazards before they cause injury or illness is a far more effective approach.

The idea is to begin with a basic program and simple goals and grow from there. If you focus on achieving goals, monitoring performance, and evaluating outcomes, your workplace can progress along the path to higher levels of safety and health achievement.

Employers will find that implementing these recommended practices also brings other benefits. Safety and health programs help businesses:

- **Prevent** workplace injuries and illnesses
- **Improve** compliance with laws and regulations
- **Reduce** costs, including significant reductions in workers' compensation premiums
- **Engage** workers
- **Enhance** their social responsibility goals
- **Increase** productivity and enhance overall business operations

Participate in
Safe + Sound Week
August 13-19, 2018



Download OSHA's
Recommended Practices
for Safety and Health
Programs

Download OSHA's
Recommended Practices
for Safety and Health
Programs in Construction

<https://www.osha.gov/shpguidelines/>

Revised Penalties as of January 2019

Violation Type	Penalty
Posting Requirements	\$13,260
Other-than-Serious	\$13,260
Serious	\$13,260
Failure to Abate	\$13,260/day
Repeated	\$132,598
Willful	\$132,598

Regulatory agenda

Proposed Rule Stage: Cranes and Derricks in Construction

- OSHA is proposing various corrections and amendments to the cranes and derricks standards issued in 2010. Proposed rule in June 2019.
- OSHA is also proposing to expand exemptions affecting railroad roadway work. OSHA issued proposed rule in July 2018 and will complete its comment analysis by Dec. 2018.



OSHA[®] FactSheet

Protecting Workers from Exposure to Beryllium and Beryllium Compounds: A New Rule Overview

Background

Beryllium and beryllium compounds are important materials used in the electronics, energy, telecommunications, and defense industries. However, beryllium is a highly toxic metal and workers who inhale beryllium are at an increased risk of developing chronic beryllium disease (CBD) or lung cancer.

The U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) has finalized new beryllium standards for general

**Opened up
rulemaking
for review**

Industry, exposure to beryllium occurs in the following activities:

- Beryllium Production
- Beryllium Oxide Ceramics and Composites
- Nonferrous Foundries
- Secondary Smelting, Refining, and Alloying
- Precision Turned Products

Pre-Rule Stage: Communication Towers

- High fatality rate in this industry – falls are leading cause of death.
- Communication tower construction and maintenance activities may not be adequately covered by current OSHA fall protection and personnel hoisting standards.
- Request for information (RFI) sent in 2015.
- Small Business Regulatory Enforcement Fairness Act (SBREFA) process initiated in May 2018. OSHA plans to complete the SBREFA process in Oct. 2018.
- See www.osha.gov/doc/comtowersbrefa.html for more information.

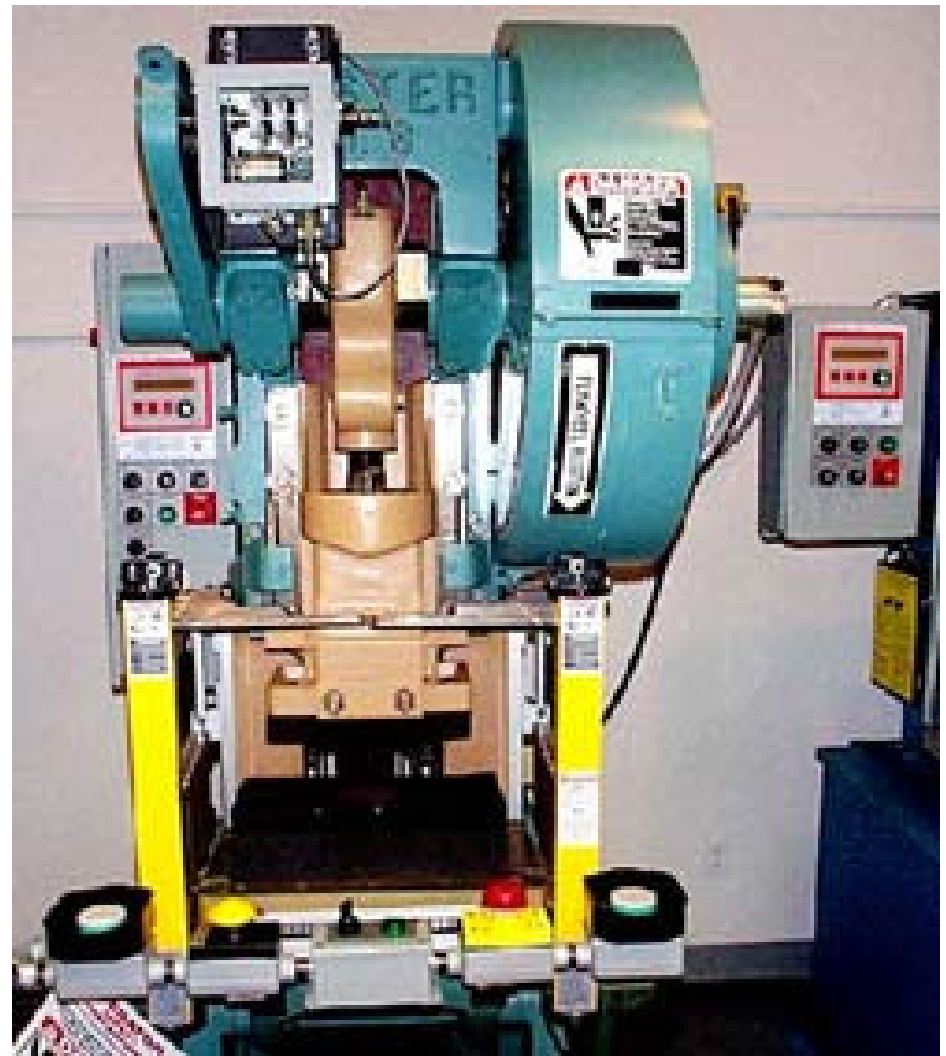
Pre-Rule Stage:

Emergency Response & Preparedness

- Current OSHA standards do not reflect all the major developments in safety and health practices that have already been accepted by the emergency response community and incorporated into industry consensus standards.
- OSHA's standards do not address the full range of hazards or concerns facing emergency responders, nor do they reflect major changes in performance specifications for protective clothing and equipment.
- OSHA plans to initiate the Small Business Regulatory Enforcement Fairness Act (SBREFA) process in October 2018.

Pre-Rule Stage: Mechanical Power Presses

- Current OSHA standard is 40 years old and does not address technological changes or the use of hydraulic or pneumatic power presses.
- OSHA plans to issue a request for information (RFI) in December 2018 to determine how to proceed.



Pre-Rule Stage: Powered Industrial Trucks

- OSHA's powered industrial trucks standard relies on ANSI standards from 1969.
- The Industrial Truck Association has asked OSHA to update and expand the OSHA standard to account for the substantial revisions to ANSI standards on powered industrial trucks over the last 45 years.
- The current standard covers 11 types of trucks, and there are now 19 types. In addition, the standard itself incorporates an out-of-date consensus standard.
- OSHA plans to issue a request for information (RFI) in October 2018 to begin the process to develop a proposed rule updating the consensus standard referenced from the 1969 version of B56.1 to the 2016 version.

Pre-Rule Stage: Lock-Out/Tag-Out

- Recent technological advancements that employ computer-based controls of hazardous energy (e.g., mechanical, electrical, pneumatic, chemical, radiation) conflict with OSHA's existing lock-out/tag-out standard.
- The use of these computer-based controls has become more prevalent as equipment manufacturers modernize their designs.
- OSHA plans to issue a request for information (RFI) in October 2018 to help it understand the strengths and limitations of this new technology, and potential hazards to workers.

Pre-Rule Stage: Tree Care Standard



- There is no OSHA standard for tree care operations. OSHA applies a patchwork of standard to address the serious hazards in this industry.
- The tree care industry has petitioned OSHA to initiate a rulemaking.
- OSHA plans to initiate the Small Business Regulatory Enforcement Fairness Act (SBREFA) process in June 2019.

Pre-Rule Stage: Workplace Violence in Health Care and Social Assistance

- Labor unions and National Nurses United petitioned OSHA to issue a standard on preventing workplace violence in health care. OSHA granted the petitions in January 2017.
- OSHA previously issued a request for information (RFI) asking health care employers and workers about the impact of workplace violence and prevention strategies.
- OSHA plans to initiate the Small Business Regulatory Enforcement Fairness Act (SBREFA) process in March 2019.

Pre-Rule Stage:

Blood Lead Level for Medical Removal

- OSHA's lead standards for general industry and construction are based on lead toxicity information that is over 35 years old. The standards allow for the return of the employee to former job status at a BLL < 40 µg/dL.
- The U.S. Department of Health and Human Services, Council of State and Territorial Epidemiologists (CSTE), and California's Medical Management recommend that BLLs among all adults be reduced to <10 µg/dL.
- OSHA plans to issue an Advanced Notice of Proposed Rulemaking in March 2019 to help identify possible areas of the lead standards for revision to improve protection of workers in industries and occupations where preventable exposure to lead continues to occur.

Final Rule Stage: Respirator Quantitative Fit Test Protocols

- Respiratory fit testing methods are in Appendix A of the respiratory protection standard (1910.134)
- OSHA received request to consider new respirator quantitative fit test protocols
- OSHA plans to issue a final rule in December 2018



Pre-Rule Stage: Silica in Construction

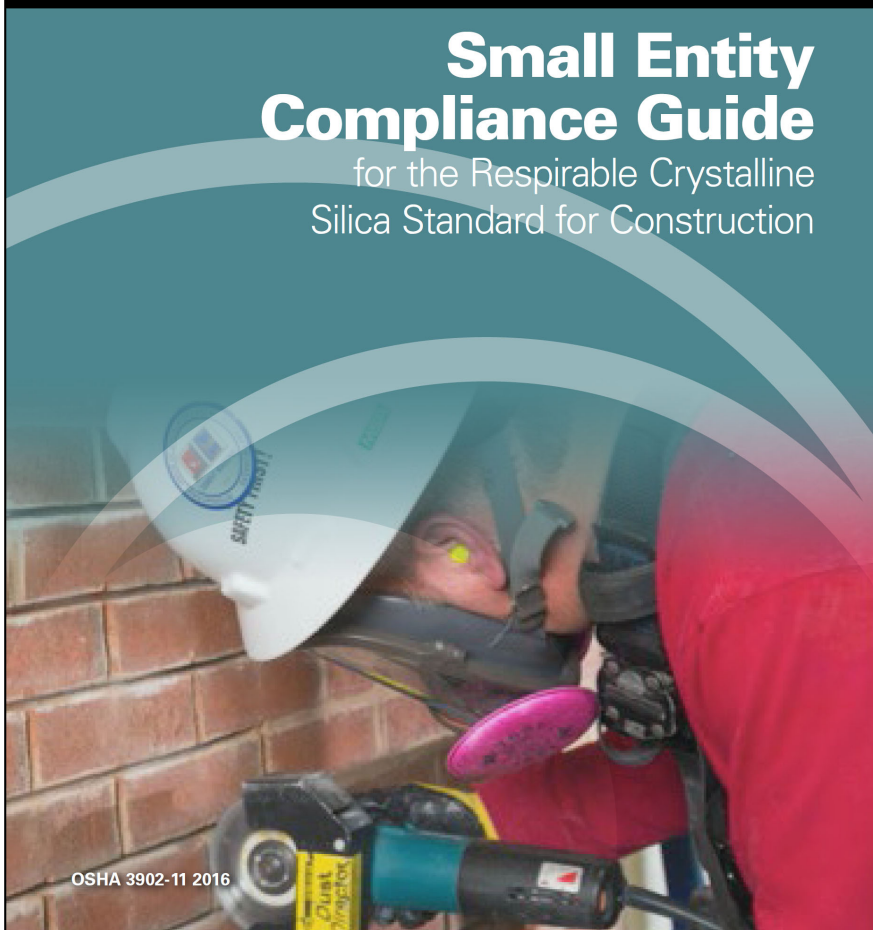
- Table 1 in OSHA's crystalline silica standard for construction includes dust control methods for certain equipment/tasks. Employers that follow Table 1 are not required to measure workers' silica exposure and are not subject to the PEL.
- OSHA plans to issue a request for information (RFI) in December 2018 on the effectiveness of control measures not currently included for tasks and tools listed in Table 1. OSHA is also interested in learning more about tasks and tools involving exposure to silica that are not currently listed in Table 1.





Small Entity Compliance Guide

for the Respirable Crystalline
Silica Standard for Construction

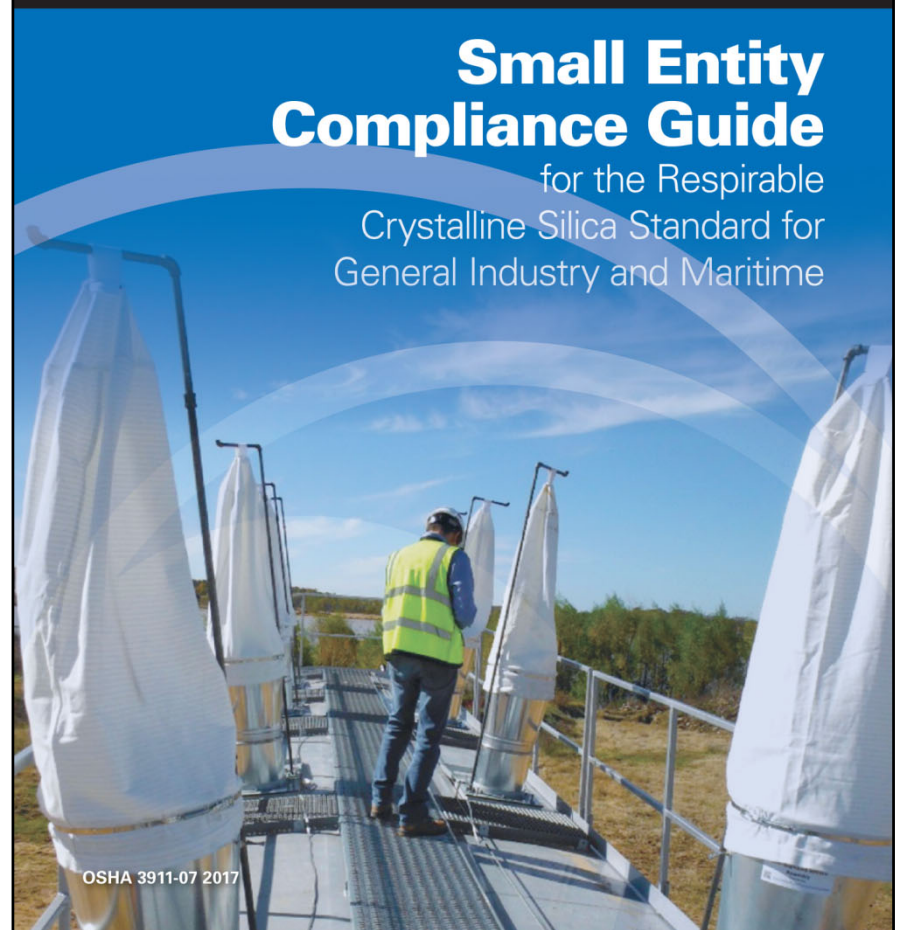


OSHA 3902-11 2016

<https://www.osha.gov/Publications/OSHA3902.pdf>

Small Entity Compliance Guide

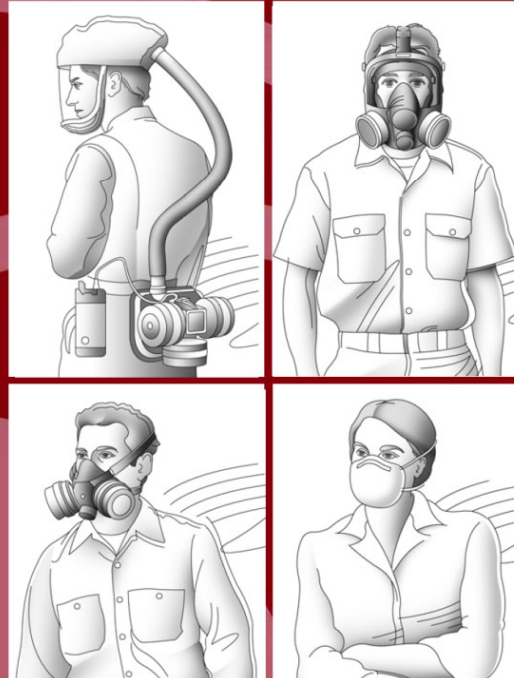
for the Respirable
Crystalline Silica Standard for
General Industry and Maritime



OSHA 3911-07 2017

<https://www.osha.gov/Publications/OSHA3911.pdf>

Small Entity Compliance Guide for the Respiratory Protection Standard



<https://www.osha.gov/Publications/3384small-entity-for-respiratory-protection-standard-rev.pdf>

Initiatives, Campaigns & Cooperative Programs



cintas®
READY FOR THE WORKDAY®



Voluntary Protection Programs
An OSHA Cooperative Program

OSHA Safety Partnership

- Potawatomi Hotel Expansion in Milwaukee.
- Construction of 119 new rooms atop an existing hotel podium, as well as the addition of kitchen expansions, and banquet and storage facilities.



OSHA Safety Partnership

- Construction of power plant in North Beloit



On-Site Safety and Health Consultation Program



2019 Campaigns

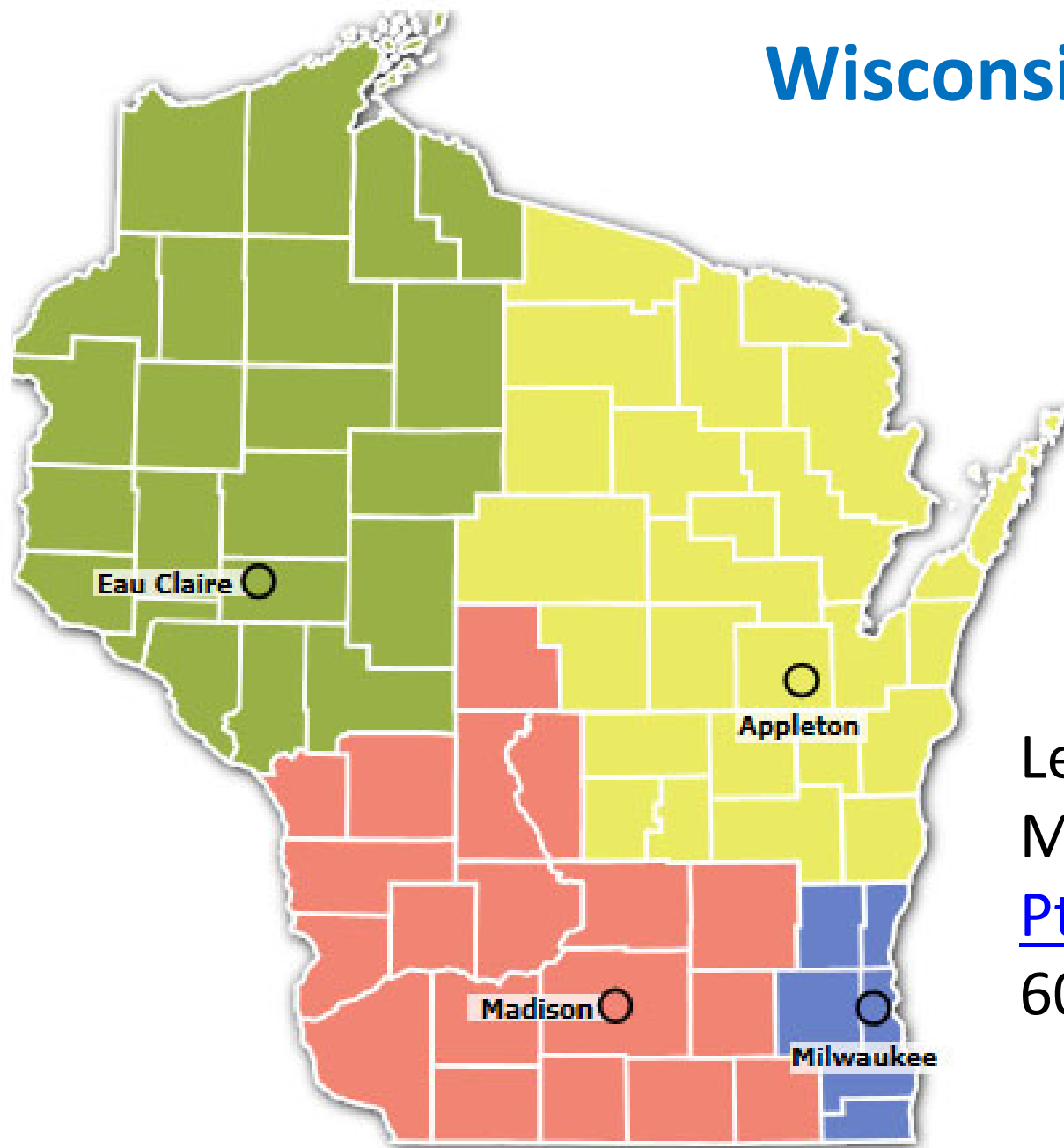
- March is **Ladder** Safety Month
- March 25th is **Grain Handling** Stand Up Week
- April 8th is **Work Zone Awareness** Week
- April is **Distracted Driving** Month
- May 6th is **Fall Prevention** Week
- May 27th is **Heat Illness Prevention** Day
- June 10th is **Forklift** Safety Day
- June 17th – 22nd is **Trench Safety** Week
- August 12th – 18th is **Safe + Sound** Campaign Week
- September is **N95 Respirator** Month
- September is **National Preparedness** Month



**U.S. Department
of Labor initiatives
to help you find
what you are
looking for.**



Wisconsin OSHA Offices



Leslie Ptak
Madison OSHA Office
Ptak.leslie@dol.gov
608-441-5388 x114

United States of OSHA



Any questions?





SHA

Since 1971